

**REMARKS/ARGUMENTS**

The Applicant originally submitted Claims 1-21 in the application. In a previous response, the Applicant amended Claims 1, 4-5, 7-8, 15, 18-19 and 21. In the present response, the Applicant has not amended, canceled or added any claims. Accordingly, Claims 1-21 are currently pending in the application.

**I. Rejection of Claims 1, 4, 7-8, 11, 14-15, 18 and 21 under 35 U.S.C. §103**

The Examiner has rejected Claims 1, 4, 7-8, 11, 14-15, 18 and 21 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,308,215 to Kolbet, *et al.*, in view of U.S. Patent No. 5,469,746 to Fukunaga. The Applicant respectfully disagrees.

As the Examiner is no doubt aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure.

As recognized by the Examiner, Kolbet does not teach or suggest a performance indication system for use with a Universal Serial Bus (USB) signal that indicates the data transfer rate of the USB signal to a user as recited in independent Claims 1, 8 and 15. To teach a condition indication subsystem (referred to as a signal processor 104 in Fukunaga), the Examiner cites Fukunaga. (See Final Rejection, page 3.) Fukunaga, however, also does not teach or suggest indicating the data transfer rate of a USB signal to a user as recited in independent Claims 1, 8 and 15. In fact, Fukunaga presents no association with USB signals. Instead, Fukunaga discloses an electronic flow meter for determining the flow rate of a fluid. (See column 1, lines 6-8 and column 15, lines 58-65.) Thus, neither Kolbet nor Fukunaga teach or suggest indicating a data transfer rate of a USB signal to a user as recited in independent Claims 1, 8 and 15.

Thus, the cited combination of Kolbet and Fukunaga does not teach or suggest each element of independent Claims 1, 8 and 15 and, as such, does not meet the third criteria stated above that is required to establish a *prima facie* case of obviousness. Accordingly, the cited combination of Kolbet and Fukunaga does not provide a *prima facie* case of obviousness of Claims 1, 8 and 15 and Claims that depend thereon. Therefore, the Applicant respectfully requests the Examiner to withdraw the §103(a) rejection of Claims 1, 4, 7-8, 11, 14-15, 18 and 21 and allow issuance thereof.

Additionally, regarding the first criteria stated above that is required to establish a *prima facie* case of obviousness, the Examiner asserts that it would have been obvious to one of ordinary skill in the art to modify the teachings of Kolbet with the teachings of Fukunaga to obtain a performance indication system that indicates a data transfer rate to a user. The Examiner also asserts that one of ordinary skill in the art would have been motivated to make such a combination since the

combination would provide a well known way to output an operating status. (See Examiner's Final Rejection, page 3.) However, neither Kolbet, Fukunaga nor the knowledge generally available to one of ordinary skill in the art provide a suggestion or motivation to modify the teachings of Kolbet or Fukunaga or to combine the teachings of Kolbet or Fukunaga to arrive at the present invention as claimed. On the contrary, Kolbet provides no motivation to modify its teaching of extending USB linkage to display a rate of a USB signal to a user. Instead, Kolbet teaches a speed indicator signal is used by computer equipment (*i.e.*, extender ports) for transmitting USB signals. (See column 2, lines 27-63 and column 8, line 56 to column 9, line 6.) Fukunaga also provides no motivation to modify its teaching of a electromagnetic flow meter for fluids to display a rate of a USB signal to a user. Instead, Fukunaga is concerned with providing an improved flow meter for fluids that is highly noise-proof. (See column 2, lines 14-21.)

Additionally, there is no motivation to combine Kolbet and Fukunaga. One skilled in the art would not be motivated to combine Kolbet and Fukunaga since Kolbet is directed to extending USB linkage and Fukunaga is directed to flow meters for fluids. Accordingly, not only does the cited combination of Kolbet and Fukunaga fail to teach or suggest each element of independent Claims 1, 8 and 15, but the cited combination of these references is also improper.

## II. Rejection of Claims 2, 9 and 16 under 35 U.S.C. §103

The Examiner has rejected Claims 2, 9 and 16 under 35 U.S.C. §103(a) as being unpatentable over Kolbet and Fukunaga in view of U.S. Patent No. 4,402,271 to Heidmann, *et al.* The Applicant respectfully disagrees.

As discussed above, Kolbet and Fukunaga does not teach or suggest indicating a data transfer rate of a USB signal to a user as recited in amended Claims 1, 8 and 15. Heidmann has not been cited to teach indicating a data transfer rate to a user but to teach at least a portion of a performance indication system that is contained in a cable assembly. (See Examiner's Final Rejection, page 4.) The Applicants do not find where Heidmann discloses indicating a data transfer rate to a user but instead is directed to an anti-tank mine with a wide area of action. (See Abstract.)

Thus, the cited combination of Kolbet, Fukunaga and Heidmann does not teach or suggest indicating a data transfer rate to a user as recited in independent Claims 1, 8 and 15. Accordingly, the cited combination of Kolbet, Fukunaga and Heidmann does not provide a *prima facie* case of obviousness of Claims 1, 8 and 15 and Claims 2, 9 and 16 that depend thereon, respectively. Therefore, the Applicant respectfully requests the Examiner to withdraw §103(a) rejection of Claims 2, 9 and 16 and allow issuance thereof.

### III. Rejection of Claims 3, 10 and 17 under 35 U.S.C. §103

The Examiner has rejected Claims 3, 10 and 17 under 35 U.S.C. §103(a) as being unpatentable over Kolbet and Fukunaga in view of U.S. Patent No. 6,542,946 to Wooten. The Applicant respectfully disagrees.

As discussed above, Kolbet and Fukunaga does not teach or suggest indicating a data transfer rate to a user as recited in amended Claims 1, 8 and 15. Wooten has not been cited to teach indicating a data transfer rate to a user but to teach at least a portion of a performance indication system that is contained in a peripheral device. (See Examiner's Final Rejection, page

5.) The Applicants do not find where Wooten discloses indicating a data transfer rate to a user but instead is directed to a dual mode differential transceiver for use in a USB to permit both full speed and high speed data transfers to occur. (See column 1, lines 20-23.)

Thus, the cited combination of Kolbet, Fukunaga and Wooten does not teach or suggest indicating a data transfer rate to a user as recited in independent Claims 1, 8 and 15. Accordingly, the cited combination of Kolbet, Fukunaga and Wooten does not provide a *prima facie* case of obviousness of Claims 1, 8 and 15 and Claims 3, 10 and 17 that depend thereon, respectively. Therefore, the Applicant respectfully requests the Examiner to withdraw §103(a) rejection of Claims 3, 10 and 17 and allow issuance thereof.

#### IV. Rejection of Claims 5, 12 and 19 under 35 U.S.C. §103

The Examiner has rejected Claims 5, 12 and 19 under 35 U.S.C. §103(a) as being unpatentable over Kolbet and Fukunaga in view of U.S. Patent No. 5,365,577 to Davis, *et al.* The Applicant respectfully disagrees.

As discussed above, Kolbet and Fukunaga does not teach or suggest indicating a data transfer rate to a user as recited in amended Claims 1, 8 and 15. Davis has not been cited to teach indicating a data transfer rate to a user but to teach at least a portion of a condition indication system that employs an audible device. (See Examiner's Final Rejection, page 6.) Additionally, the Applicants do not find where Davis discloses indicating a data transfer rate to a user but instead is directed to telecommunications systems adapted for transmission of speech and display data over standard, existing telephone lines for audio-graphic communication between parties. (See column 1, lines 13-17.) Davis does disclose a tone generator but the signals from the tone

generator are used to configure a subscriber's terminal (*see* column 22, lines 23-28), not indicate a data transfer rate to a user.

Thus, the cited combination of Kolbet, Fukunaga and Davis does not teach or suggest indicating a data transfer rate to a user as recited in independent Claims 1, 8 and 15. Accordingly, the cited combination of Kolbet, Fukunaga and Davis does not provide a *prima facie* case of obviousness of Claims 1, 8 and 15 and Claims 5, 12 and 19 that depend thereon, respectively. Therefore, the Applicant respectfully requests the Examiner to withdraw §103(a) rejection of Claims 5, 12 and 19 and allow issuance thereof.

V. Rejection of Claims 6, 13 and 20 under 35 U.S.C. §103

The Examiner has rejected Claims 6, 13 and 20 under 35 U.S.C. §103(a) as being unpatentable over Kolbet, Fukunaga in view of U.S. Patent Application Publication No. 20030026183 by Kitagawa. The Applicant respectfully disagrees.

As discussed above, Kolbet and Fukunaga does not teach or suggest indicating a data transfer rate to a user as recited in amended Claims 1, 8 and 15. Kitagawa has not been cited to teach indicating a data transfer rate to a user but to teach determination of the data transfer rate is based on an outcome of a chirping process. (*See* Examiner's Final Rejection, pages 6-7.) Additionally, the Applicants do not find where Kitagawa discloses indicating a data transfer rate to a user but instead is directed to automatically changing a writing speed of an optical medium in accordance with an interface data transfer speed. (*See* column 1, paragraph 2.)

Thus, the cited combination of Kolbet, Fukunaga and Kitagawa does not teach or suggest indicating a data transfer rate to a user as recited in independent Claims 1, 8 and 15.

Accordingly, the cited combination of Kolbet, Fukunaga and Kitagawa does not provide a *prima facie* case of obviousness of Claims 1, 8 and 15 and Claims 6, 13 and 20 that depend thereon, respectively. Therefore, the Applicant respectfully requests the Examiner to withdraw §103(a) rejection of Claims 6, 13 and 20 and allow issuance thereof.

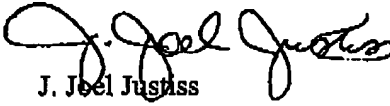
#### VI. Conclusion

In view of the foregoing amendment and remarks, the Applicant now sees all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicits a Notice of Allowance for Claims 1-21.

The Applicant requests the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application.

Respectfully submitted,

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